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## CHAPTER 325

### THE PESTICIDES CONTROL ACT

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### PESTICIDES CONTROL

(5th September, 1973.)

1511973.

1. This Act may be cited as the Pesticides Control Act. **short title.**

2. In this Act—

**Interpretation.**

"Board" means the Pesticides Control Board established under section 4;

“extermination” means the use of pesticides for the destruction or control of pests;

“inspector” means any person appointed as an inspector under section 5;

“Minister” means the Minister responsible for agriculture;

“pest” includes any insect, rodent, bird, fish, mollusc, nematode, fungus, weed, microorganism, virus or other kind of plant or animal life which is injurious, troublesome or undesirable to crops, stored products, processed foods, woods, clothes, fabrics or other inanimate objects or which are objectionable from the view point of public health and hygiene. It also includes ectoparasites of man, or ectoparasites or endoparasites of animals; except that, by regulations, any pest may be specifically included or excluded;

“pesticide” means any product proposed or used for controlling a pest;

“pest control operator” means any person who, by himself or his employees, assistants or agents, carries out an extermination for reward;

“produce” means articles grown for consumption or for other use after severance from the land on which it was grown, and includes such articles after severance and also any articles ordinarily used or which may be used in the composition of food for human beings and domestic and farm animals, but does not include growing crops;

“worker” means a person employed whose employment includes the use and handling of pesticides.

**Powers of the  
Governor-General  
to make  
regulations.**

**3.** (1) The Governor-General may make Regulations for carrying into effect the provisions of this Act and in particular for—

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(a) prohibiting the manufacture, formulation, importation, sale and use of particular pesticides or classes of pesticides;

(b) controlling the manufacture, formulation and importation and the sale or other distribution of particular pesticides or classes of pesticides;

(c) controlling the use of pesticides in agriculture generally;

(d) controlling the use of pesticides on produce during its storage and transportation;

(e) controlling the conditions under which pesticides are stored;

(f) protecting workers against the risk of poisoning or other injury by pesticides;

(g) protecting the interests of owners and users of any land or property adjacent to land on which pesticides are used;

(h) prescribing the permissible level of any pesticide in any particular kind of produce when offered for sale.

(2) Without prejudice to the generality of the provisions of subsection (1), such Regulations may make provision—

(a) as to the quantities of pesticides which may be imported, the types of container in which such pesticides may be imported, transported and offered for sale or otherwise distributed, and as to the labelling of such containers and their subsequent disposal and as to the disposal of surplus or unwanted stocks of pesticides;

(b) requiring the keeping and inspection of records and the furnishing of returns and other information with respect to stocks, sale and use or disposal of pesticides;

(c) imposing restrictions or conditions as to the purpose for which, the circumstances in which, or the methods by means of which particular pesticides may be used, including restrictions or conditions involving a prohibition of the use thereof in particular circumstances;

(d) imposing restrictions and obligations on pest control operators or particular classes of pest control operators;

(e) imposing obligations on employers of workers, on such workers themselves and on other persons;

(f) requiring the provision, wearing and keeping in good order and the production when required by an inspector, by employers, manufacturers and other persons, of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, equipment and appliances from contamination or for removing sources of contamination therefrom;

(g) requiring the observance of precautions against poisoning from pesticides including the use of things provided in accordance with the Regulations and including abstention from eating, drinking and smoking in circumstances involving risk of poisoning;

(h) securing intervals between, or limitation of, periods of exposure to risks of poisoning from pesticides;

(i) requiring the observance of special precautions in the case of persons who, by reason of their state of health or age are subject to particular risks of poisoning, or imposing in the case of persons so subject prohibitions whether temporary or permanent, or restrictions, on their employment as workers;

(j) prescribing measures for investigating and detecting cases in which poisoning from pesticides has occurred or may reasonably be thought to have occurred, including the collection of samples, analyses, medical examinations and the making of blood tests;

(k) requiring the provision, and keeping in good order, and use of facilities for preventative and first aid treatment;

(l) requiring the provision of, and submission to, instruction and training in the use of things provided in pursuance of the Regulations, and in the observance of precautions;

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(m) requiring that licences be obtained from the Board for the importation, sale or other distribution, and use of any pesticide, and prescribing the manner of applying for such licences the fees payable and the conditions subject to which such licences may be granted.

(3) Regulations under this section may—

(a) make different provisions to meet different circumstances and in particular to meet differences in composition of pesticides and their poisonous effects under different conditions and on different classes of persons; and

(b) provide for the exemption of particular cases or of particular persons from the operation of part or all of the Regulations.

(4) Regulations made under this section shall be subject to the negative resolution of the Legislature.

**4.** (1) There is hereby established a Board to be called the Pesticides Control Board. **Establishment of Board.**

(2) The Board shall consist of five members appointed for a period of two years by the Minister from amongst persons appearing to him to be qualified by reason of having had experience of and shown capacity in matters relating to medicine, chemistry, science, agriculture or law.

(3) The Minister may appoint any person appearing to him to have the qualifications necessary for appointment under the provisions of subsection (2), to act temporarily in the place of any member of the Board in the case of the absence or inability to act of such a member.

(4) The Minister shall appoint one of the members of the Board to be Chairman of the Board.

(5) In the case of the absence or inability of the Chairman to act at any meeting the remaining members of the Board shall select one of their number to act as Chairman at that meeting.

(6) The Minister may at any time revoke the appointment of any member of the Board if he thinks it expedient so to do.

(7) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Chairman shall determine.

(8) The quorum of the Board shall be three including the Chairman.

(9) The decisions of the Board shall be by majority vote and the Chairman shall have an original and a casting vote.

(10) The functions of the Board shall be—

(a) to advise the Minister on matters relevant to the making of Regulations under this Act; and

(b) to carry out the provisions of this Act and of Regulations made thereunder.

**Appointment of inspectors.**

**5.** (1) The Minister may appoint from time to time such inspectors as he may deem to be necessary or expedient to assist the Board in the discharge of its functions and shall furnish every such inspector with a certificate of his appointment as such.

(2) A member of the Board shall be eligible for appointment as an inspector.

**Expenses from general revenue.**

**6.** There shall be defrayed out of the general revenue of Antigua and Barbuda all expenses incurred in the administration of this Act.

**Authorisation of entry.**

**7.** (1) The Board may, for the purpose of carrying out the provisions of this Act or Regulations made thereunder authorise in writing under the hand of the Chairman any inspector to enter at all reasonable hours, but subject to the provisions of subsection (2), any land or premises to which this section applies.

(2) Such inspector, before entering—

(a) any land or premises to which this section applies shall produce, if so required, the instrument authorising him to enter;

(b) any dwelling house on such land shall cause at least twenty-four hours notice of the intended entry to be given to the occupier of such dwelling house:

Provided that no such notice need be given in the case of a dwelling house in which there are, or are reasonably believed by such inspector to be, washing facilities or other things provided pursuant to the provisions of this Act or Regulations made thereunder for the use of persons not living in such dwelling house.

(3) This section applies to any land or premises—

(a) on which any pesticide is being or has recently been used, manufactured, sold, packaged or stored;

(b) which is being used or has recently been used for a purpose connected with the use, manufacture, sale, packaging or storage of any pesticide;

(c) on which things required by the Regulations made under this Act to be provided or done are provided or done; or

(d) which the inspector has reasonable cause to believe to be land or premises falling within any of the preceding paragraphs of this subsection.

**8.** (1) In the performance of his duties under this Act an inspector shall have power to do all or any of the following things, that is to say—

**General powers of inspectors.**

(a) to require the production of, and to inspect, examine and copy registers, records or other documents required to be kept by Regulations made under this Act;

(b) to make such examinations and enquiries as may be necessary to ascertain whether the provisions of this Act and of Regulations made thereunder are complied with;

(c) to require any person whom he finds on the land or premises to which section 7 applies to give such information as it is in his power to give as to who is

the occupier thereof or the employer of workers employed to work thereon;

(d) to interview, with respect to the observance of the provisions of this Act or of the Regulations made thereunder, any person whom he finds on land or premises to which section 7 applies or whom he has reasonable cause to believe to be, or to have been within the preceding two months, employed to work thereon;

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(e) in the case of an inspector who is a medical practitioner, registered under the Medical Act, to carry out medical examinations;

(f) subject to the provisions of subsection (3), to seize and detain any pesticide or other thing by means of which, or in relation to which, he reasonably believes that the provisions of this Act or of any Regulations made thereunder have been contravened;

(g) to exercise such other powers as may be necessary for carrying out the provisions of this Act and of Regulations made thereunder.

(2) A person shall be deemed to obstruct an inspector in the execution of his powers under this Act if—

(a) he wilfully delays an inspector in the exercise of any power conferred upon him by this Act;

(b) he fails to comply with any requirement of an inspector made in pursuance of this section; or

(c) he prevents, or attempts to prevent any person from being examined by an inspector under this section.

(3) An inspector shall release any pesticide or other thing seized or detained by him as soon as he is satisfied that there has been no contravention of the provisions of this Act or of any Regulations made thereunder.

(4) Any pesticide or other thing seized may be kept or stored by the inspector at the place where it was seized or at any other place which the inspector may determine.

(5) If the owner, or the person in possession of any pesticide or other thing seized by an inspector consents to

the destruction thereof, such pesticide or other thing shall be disposed of in such manner as the Board may direct.

9. (1) Any person who—

Offences.

(a) contravenes any provision of this Act;

(b) contravenes any provision of any Regulations made under this Act;

(c) obstructs an inspector in the execution of his powers or duties under this Act or any Regulations made thereunder;

(d) removes, alters or interferes with any ~~pesticide~~ pesticide or other thing seized under this Act without the authority of an inspector; or

(e) wilfully makes a false entry in any register, record, return or other document kept or furnished in pursuance of Regulations made under this Act, or wilfully makes use of such false entry.

shall be guilty of an offence against this Act and be liable on summary conviction to a fine of seven hundred and fifty dollars or to imprisonment for a term not exceeding six months and to a further penalty of three hundred dollars for each day on which the contravention continues after such conviction.

(2) Where a contravention of a provision of Regulations made under this Act consists in a failure to do anything at or within a time specified in the Regulations, and the Regulations provide that this subsection shall apply to a failure so to do it the contravention shall be deemed to continue until that thing is done.

(3) Where an offence against this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any person who is a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, such person as well as the body corporate shall be guilty of that offence.

(4) In subsection (3) the expression "director" in relation to any body corporate which is established by or under any enactment for the purpose of carrying on under public ownership any industry or undertaking and whose affairs are managed by the members thereof, means a member of that body.

Disqualification  
for offences.

**10.** (1) In addition to any other penalties prescribed under this Act, the court before which a person has been convicted for an offence against this Act may, in its discretion, order that such person shall be disqualified from holding or obtaining any licence or licences under this Act for a period not exceeding six months in the case of a first conviction under this Act, and for a period not exceeding five years in respect of a subsequent conviction, as it may think fit.

(2) No person against whom an order of disqualification has been made shall be entitled to a refund of licence fee previously paid.

Confiscation of  
pesticide etc.

**11.** In addition to any other penalties prescribed under this Act, the court before which a person has been convicted for an offence against this Act, may order that any pesticide or other thing connected with the commission of the offence be confiscated and destroyed or dealt with in such manner as the court thinks fit.

Defence available  
in certain  
circumstances to  
persons  
charged—  
where some other  
person is  
responsible.

**12.** (1) A person against whom proceedings are brought under this Act (hereinafter in this section referred to as the "defendant") shall, upon information duly laid by him and on giving to the prosecution not less than three clear days notice of his intention, be entitled to have brought before the court in the proceedings any person to whose act or default he alleges that the contravention was due, (hereinafter in this section referred to as the "third party") and, if after the contravention has been proved the defendant proves that the contravention was due to the act or default of the third party, such third party may be convicted of the offence, and, if the defendant further proves—

(a) that he has used all due diligence to secure that the provision in question was complied with; and

(b) that the third party's act or default was without his consent, connivance or wilful default,

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the proceedings against him shall be dismissed.

(2) Where the defendant seeks to avail himself of the provisions of subsection (1)—

(a) the prosecution as well as the third party shall have the right to cross examine the defendant, if he gives evidence, and any witness called by him, and to call evidence in rebuttal;

(b) the court may make such order if it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the Attorney-General that an offence has been committed in respect of which proceedings might be taken under this Act against some person and the Attorney-General is reasonably satisfied that the offence was due to an act or default of a third party and that the first named person could establish an offence under subsection (1) the Attorney-General may cause proceedings to be taken against that third party without causing proceedings to be taken against the first mentioned person.

**13.** (1) It shall be lawful for an inspector to take for analysis samples of any substance or thing which in his opinion may be or may contain a pesticide and which he finds in, or has reasonable cause to believe to be in transit to or from the land or premises to which section 7 applies. Provisions as to samples.

(2) An inspector taking a sample under the provisions of subsection (1) with the intention of having it analysed shall, if practicable, forthwith give notice of his intention to the owner.

(3) The inspector shall then and there divide the sample into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit and shall—

(a) if required to do so by the owner, deliver one part to him;

(b) retain one part for future comparison; and

(c) if the inspector thinks it necessary to have an analysis made, submit one part to an analyst for analysis.

(4) Where it is not practicable for an inspector to comply with the provisions of subsection (2) he shall, if he intends to have the sample analysed, and if he can ascertain the name and address of such owner, forward one part of the sample to him by registered post or otherwise, together with a notice informing him that he intends to have the sample analysed.

(5) Notwithstanding the provisions of subsections (3) and (4), where in the opinion of the inspector the division of a sample into parts would interfere with a proper analysis he may seal the whole of the sample and submit the same to an analyst for analysis and in such a case the analyst shall, on opening the sealed sample prior to analysis, divide the sample into two separate parts and keep one part for future comparison.

(6) A document purporting to be a certificate by an analyst as to the result of an analysis of a sample shall in proceedings under this Act be admissible as evidence of the matters stated therein, but either party may require the person by whom the analysis was made to be called as a witness.

(7) In any proceedings under this Act in which the prosecutor intends to rely on evidence relating to a sample taken under this section, the summons shall not be made returnable less than fourteen days from the day on which it is served, and a copy of any certificate of analysis obtained on behalf of the prosecutor shall be served with the summons.

(8) In proceedings under this Act in which the prosecutor relies on evidence relating to a sample taken under this section, the part of the sample retained by the inspector or by the analyst as the case may be for future comparison shall be produced at the hearing.

(9) The Court before which any proceedings are taken under this Act may if it thinks fit having regard to any request made by a party to the proceedings, cause the part of any sample produced before the court in accordance with the provisions of subsection (8) to be sent to an analyst, other than the analyst whose certificate is then before the court, who shall make an analysis and shall transmit to the court a certificate of the result thereof, and the court shall, upon the

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determination of the proceeding make such order as it thinks fit as to the cost incurred in respect of such analysis.

(10) If, in a case where an appeal is brought, no action has been taken under the preceding provisions of this section those provisions shall apply also in relation to the court by which the appeal is heard.

(11) In this section "analyst" means an analyst approved by the Minister for the purpose of this Act.

(12) In subsections (2), (3) and (4) the expression "owner" shall include—

(a) the servant or agent of the owner of the substance or thing from which the sample was taken;

(b) the person in whose possession the substance or thing from which the sample was taken was found;

(c) the owner or occupier of any land or premises on, or vehicle in which the substance or thing from which the sample was taken was found;

(d) the employer of any worker in whose possession the substance or thing from which the sample was taken was found.

**14.** This Act and any Regulations made thereunder shall bind the Crown, but Regulations under this Act may provide for modifications or exceptions in the application of this Act or such Regulations to, or in relation to, the Crown. **Application to the Crown.**

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